

IN THE UNITED STATES DISTRICT COURT
DISTRICT OF UTAH - CENTRAL DIVISION

FILED IN UNITED STATES DISTRICT
COURT, DISTRICT OF UTAH

UNITED STATES OF AMERICA,

Plaintiff,

vs.

DOUGLAS L. FRANCOM,

Defendant.

**ORDER ADOPTING REPORT
AND RECOMMENDATION**

Case No. 2:09-cr-150-DB-PMW

Judge Dee Benson

OCT 18 2010
BY D. MARK JONES, CLERK
DEPUTY CLERK

Before the Court is the Report and Recommendation issued by United States Magistrate Judge Paul M. Warner on August 10, 2010, recommending that Defendant's (1) motion to suppress, (2) motion for a Franks hearing, and (3) motion for disclosure of the identity of a confidential informant be DENIED.

The parties were notified of their right to file objections to the Report and Recommendation within fourteen (14) days after receiving it. Defendant filed a timely response objecting to the magistrate judge's following conclusions:

1. The search of the impounded automobile on October 2, 2008, was lawful;
2. The December 2, 2008, stop and detention of Defendant was not pretextual and was not unreasonably extended;
3. Defendant failed to raise the issue of the reliability of Officer Bennett's canine in either his original or amended motions to suppress and did not raise the issue or adduce any evidence during the evidentiary hearing. Therefore, the magistrate judge refused to address this argument;
4. The March 10, 2009, search warrant was supported by probable cause and was valid;

5. Defendant is not entitled to a Franks hearing because he failed to make a sufficient preliminary showing that the information included in the affidavit was misleading or that even if there were such misleading testimony in the affidavit, the remaining evidence failed to support findings of probable cause; and
6. The government does not need to disclose the identity of the confidential informant.

Objections to a magistrate judge's findings or recommendations are reviewed de novo. 28 U.S.C. § 636. After carefully evaluating all relevant materials, including the parties' briefs, and the reasoning set forth in the magistrate judge's Report and Recommendation, the Court **ADOPTS** the Report and Recommendation and **DENIES** Defendant's motion to suppress, motion for a Franks' hearing, and motion for disclosure of the identity of a confidential informant.

IT IS SO ORDERED.

DATED this 18 day of October, 2010.

A handwritten signature in black ink that reads "Dee Benson". The signature is written in a cursive, flowing style. Below the signature is a horizontal line.

Dee Benson
United States District Judge